

2013 DRAFTING REQUEST

Assembly Amendment (AA-AB506)

Received: **12/17/2013** Received By: **mgallagh**
Wanted: **As time permits** Same as LRB:
For: **Thomas Weatherston (608) 266-0731** By/Representing: **John Leiber**
May Contact: Drafter: **mgallagh**
Subject: **Occupational Reg. - misc** Addl. Drafters:
Extra Copies: **MGG; PJK**

Submit via email: **YES**
Requester's email: **Rep.Weatherston@legis.wisconsin.gov**
Carbon copy (CC) to: **michael.gallagher@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Changes to surveying definition; exception for natural resources management

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	mgallagh 1/14/2014	wjackson 1/15/2014	jmurphy 1/9/2014	_____	sbasford 1/9/2014		
/P2	mgallagh 1/17/2014	wjackson 1/17/2014	jfrantze 1/15/2014	_____	srose 1/15/2014		
/P3	mgallagh 1/17/2014	evinz 1/17/2014	rschluet 1/17/2014	_____	lparisi 1/17/2014		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1			jfrantze 1/17/2014	_____ _____	srose 1/17/2014	srose 1/17/2014	

FE Sent For:

<END>

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/P2	mgallagh 1/17/2014	wjackson 1/17/2014	jfrantze 1/15/2014	_____	srose 1/15/2014		
/P3			rschluet 1/17/2014	_____	lparisi 1/17/2014		

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/P1	mgallagh 1/14/2014	wjackson 1/15/2014	jmurphy 1/9/2014	_____	sbasford 1/9/2014		
/P2			jfrantze 1/15/2014	_____	srose 1/15/2014		

1/17/14
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FE Sent For:

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/P1	mgallagh 1/8/2014	wjackson 1/9/2014	jmurphy 1/9/2014	_____	sbasford 1/9/2014		

FE Sent For:

/P2 WY 1/15

To
1/15

<END>

2013 DRAFTING REQUEST

Assembly Amendment (AA-AB506)

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Instructions:

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/P1 mgallagh

/P1 WLJ 1/9

Jan 1 2014
1/9

FE Sent For:

<END>

Gallagher, Michael

From: Leiber, John
Sent: Monday, December 16, 2013 3:59 PM
To: Gallagher, Michael
Subject: New amendment for AB 506

Michael,

This should be the last amendment for the bill, I hope. Please make this a separate amendment.

1 - In Section 100 or thereabouts add a definition: Establishment or reestablishment in this Chapter means "the formal establishment of a boundary that can have the force and effect of law but does not include the exercise of any regulatory powers by the state."

2 - Section 127 - 443.135 (1) for "timber management and sales" substitute "natural resources management". Also add a definition: Natural Resources Management includes the control of invasive species, as defined in s. 23.22 (1) (c), the cultivation or harvesting of raw forest products, as defined in s. 26.05 (1), any management of county forests under s. 28.11, the practice of forestry as defined under s. 77.81(2), sustainable forestry as defined in s. 28.04(1)(e), forestry operations as defined under s. 823.075(1)(c), and generally accepted forestry management practices as defined under s. 823.075(1)(d).

3? - Add something to Section 133 to make sure that enforcement is cross referenced back to Sec. 443.135 as it isn't an exemption section as 443.14 is. Not sure this is needed though, as 443.135 might be considered an exemption. Your thoughts?

John Leiber
Legislative Assistant
Office of State Representative Weatherston, 62nd District
(608) 266-0731
john.leiber@legis.wisconsin.gov

Gallagher, Michael

From: Gallagher, Michael
Sent: Wednesday, December 18, 2013 9:07 AM
To: Leiber, John
Subject: RE: New amendment for AB 506

John:

Item 1:

There are a few issues. First, I wouldn't use a definition to define a term or phrase that is only used once or twice. It is best to just say what you mean.

Second, I can't recommend defining "establishment or reestablishment" as "formal establishment." In that case, what is meant by the word reestablishment in the defined term? Also, it is not advisable to use the term you are defining in the definition itself.

Next, I wouldn't recommend using the phrase "that can have the force and effect of law..." because it is not clear what that means. A survey only has the force and effect of law to the extent that the statutes say it does, which generally means a map or plat is generated based on the survey that is recorded with the county register of deeds. Also, it may be circular to define the practice of professional land surveying as establishing boundaries that may have the force and effect of law and then, elsewhere in the statutes, requiring that a map may only be recorded under the seal of a professional land surveyor.

Also, I am not sure what it means to say that the establishment may have the force and effect of law but does not include any exercise of regulatory powers by the state when the survey generally only has the force and effect of law to the extent that a map or plat is recorded.

Finally, it is not clear what "formal" adds to the definition. If we say it is the "formal establishment" of boundaries, essentially we are leaving it to the courts to define the scope of the practice by determining what is or is not the "formal establishment of a boundary."

Item 2:

Again, I wouldn't use a definition for a term only used once. The exception should just say what conduct falls under the exception.

Also, this amendment conflicts with AA1 (and SA1) in that it treats the same material in the bill differently. I could combine the amendments into a single new amendment that incorporates AA1 (and SA1), or I could draft this as an amendment to AA1 (and SA1). Let me know how you would like to proceed.

Item 3:

I think 443.134 and 443.135 qualify as exemptions, but the bill calls them "exceptions." To avoid any confusion, I recommend amending page 48, line 14 to read "exempt or excepted from".

Please let me know if you have any questions.

Mike

Mike Gallagher
Attorney
Wisconsin Legislative Reference Bureau
(608) 267-7511

From: Leiber, John
Sent: Monday, December 16, 2013 3:59 PM
To: Gallagher, Michael
Subject: New amendment for AB 506

Michael,

This should be the last amendment for the bill, I hope. Please make this a separate amendment.

1 - In Section 100 or thereabouts add a definition: Establishment or reestablishment in this Chapter means "the formal establishment of a boundary that can have the force and effect of law but does not include the exercise of any regulatory powers by the state."

2 - Section 127 - 443.135 (1) for "timber management and sales" substitute "natural resources management". Also add a definition: Natural Resources Management includes the control of invasive species, as defined in s. 23.22 (1) (c), the cultivation or harvesting of raw forest products, as defined in s. 26.05 (1), any management of county forests under s. 28.11, the practice of forestry as defined under s. 77.81(2), sustainable forestry as defined in s. 28.04(1)(e), forestry operations as defined under s. 823.075(1)(c), and generally accepted forestry management practices as defined under s. 823.075(1)(d).

3? - Add something to Section 133 to make sure that enforcement is cross referenced back to Sec. 443.135 as it isn't an exemption section as 443.14 is. Not sure this is needed though, as 443.135 might be considered an exemption. Your thoughts?

John Leiber
Legislative Assistant
Office of State Representative Weatherston, 62nd District
(608) 266-0731
john.leiber@legis.wisconsin.gov

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

7
1-~~8~~-14 T/C w/ Bob Weich. ~~MB~~ MJB

Item 1: Need exception for GIS
(Geographic info. system) map
that DNR maintains and
has regulatory force/purposes.

Item 2: Need to include "natural resource
management" somewhere. Okay to
incorporate AA 1.

Item 3: Go ahead w/ "except or excepted
from" language.



In: 1/8 By end of day Thurs.
State of Wisconsin
2013 - 2014 LEGISLATURE



LRBa1353/P1
MPG:.....

1/9
Thanks

Wlj

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
ASSEMBLY AMENDMENT ,
TO ASSEMBLY BILL 506**

Fix request sheet ✓

1 At the locations indicated, amend the bill as follows:

2 ✓ 1. Page 10, line 13: substitute "attorney, or to" for "attorney, ~~or to~~".

3 ✓ 2. Page 10, line 15: after "agency" insert "an order, including any map or other
4 document filed with the order, that is recorded under subch. I or VI of ch. 77". ✓

5 ✓ 3. Page 47, line 13: delete "timber management or sales" and substitute
6 "natural resources management".

7 4. Page 47, line 15: after "depicts." ✓ insert "In this subsection, "natural
8 resources management" includes all of the following: " ©

9 # Page 47, line 15: after that line insert:
10 "(a) The control of invasive species, as defined in s. 23.22 (1) (c). ✓

11 (b) The cultivation or harvesting of raw forest products, as defined in s. 26.05

12 (1). ✓

administrative
(c) The management of county forests under s. 28.11. ✓

1 (d) The practice of forestry, as defined in s. 77.81 (2), including sustainable
2 forestry, as defined in s. 28.04 (1) (e); any services provided in connection with an
3 order, or the preparation of an application for an order, under subch. I or VI of ch. 77;
4 and any forestry operation, as defined in s. 823.075 (1) (c)."

5 ✓ 5. Page 47, line 18: after that line insert:

6 "3. The creation of ^{or} ^{creating} a geographic information systems map ^{done} ^{if the creation is} by an employee or
7 agent of the ~~Department of Natural Resources~~."

8 ✓ 6. Page 48, line 14: after "exempt" insert "or excepted".

9 (END)

Within the scope of his or her employment

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBa1353/P1dn

MPG:.....

WLj

Date

Representative Weatherston:

Please review this draft carefully to ensure that it is consistent with your intent.

This amendment incorporates AA1 to 2013 AB 506.

Please note that because the amendment states that the phrase "natural resources management" *includes* the listed activities, mostly forestry-related, under the amendment, "natural resources management" is not limited to those activities, i.e. the phrase could include other similar activities not explicitly listed in the amendment. If you want instead to limit "natural resources management" to the listed activities, then the amendment should say *means* instead of *includes*. Please let me know if you want to make that change.

Also, note that I did not include a reference to "generally accepted forestry management practices," as defined in s. 823.075 (1) (d), because that definition relates to a standard of conduct for "forestry operations," rather than the activity itself, which is covered by the inclusion of "forestry operations," as defined in s. 823.075 (1) (c), in the listed activities. It is the bare activity of forestry operations that is being included in the exception, rather than a standard of conduct relevant to determining whether any particular forestry operation is a nuisance under s. 823.075. Please let me know if you have any questions.

Thank you.

Michael Gallagher
Legislative Attorney
Phone: (608) 267-7511
E-mail: michael.gallagher@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBa1353/P1dn
MPG:wlj:jm

January 9, 2014

Representative Weatherston:

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This amendment incorporates AA1 to 2013 AB 506.

Please note that because the amendment states that the phrase "natural resources management" *includes* the listed activities, mostly forestry-related, under the amendment, "natural resources management" is not limited to those activities, i.e. the phrase could include other similar activities not explicitly listed in the amendment. If you want instead to limit "natural resources management" to the listed activities, then the amendment should say *means* instead of *includes*. Please let me know if you want to make that change.

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Thank you.

Michael Gallagher
Legislative Attorney
Phone: (608) 267-7511
E-mail: michael.gallagher@legis.wisconsin.gov

Gallagher, Michael

From: Bob <bob@thewelchgroup.org>
Sent: Tuesday, January 14, 2014 11:11 AM
To: Gallagher, Michael; Leiber, John
Subject: Re: Draft review: LRB a1353/P1 Topic: Changes to surveying definition; exception for natural resources management

Sounds good to me. Quinn will be very happy!
Bob@thewelchgroup.org

From: "Gallagher, Michael" <Michael.Gallagher@legis.wisconsin.gov>
Date: Tue, 14 Jan 2014 17:06:25 +0000
To: Bob Welch<bob@thewelchgroup.org>; Leiber, John<John.Leiber@legis.wisconsin.gov>
Subject: RE: Draft review: LRB a1353/P1 Topic: Changes to surveying definition; exception for natural resources management

Bob and John: I have not called Quinn. [Just saw your e-mail]. Looking at the bill, I can't see why we drafted the "other exceptions" under a new s. 443.135, rather than putting them under s. 443.14 as additional exemptions. In fact, I think the bill would be improved by getting rid of s. 443.135 and moving that material (as amended in the amendment) to s. 443.14. This is a purely technical change to improve the clarity of the proposed legislation. I recommend that we do it. Let me know if you don't want me to add this change to the amendment.

Mike Gallagher
Attorney
Wisconsin Legislative Reference Bureau
(608) 267-7511

From: Bob Welch [<mailto:rtwelch14@yahoo.com>]
Sent: Monday, January 13, 2014 12:31 PM
To: Gallagher, Michael; Leiber, John
Subject: Fw: Draft review: LRB a1353/P1 Topic: Changes to surveying definition; exception for natural resources management

Michael,

Good morning.

2 things on the P1 draft of this amendment.

1 - DNR would like added to the list of natural resource management items (they would put it between (c) and (d)) the following:

"The management of state lands under ss. 23.09, 23.11, 27.01, and 28.04"

I believe this is my fault as the first version of our "agreement" did not include this, but was added by DNR back in December and I missed it

2 - Can you reach out directly to Quinn Williams at DNR? He still is questioning why we include the forestry stuff as 443.135 rather than including it as part of 443.14. I can't adequately answer why it's drafted that way and I am thinking that you can put him at ease.

Quinn's direct line is: 608 266 1318 his email is: quinn.williams@wisconsin.gov

Thanks!

Bob

Bob Welch
The Welch Group
16 N Carroll Street, Suite 600
Madison, WI 53703

bob@thewelchgroup.org

608-819-0150

LRB.Legal

Sent: Thursday, January 09, 2014 3:04 PM

To: Rep.Weatherston

Subject: Draft review: LRB a1353/P1 Topic: Changes to surveying definition; exception for natural resources management

Following is the PDF version of draft LRB a1353/P1 and drafter's note.

Gallagher, Michael

From: Bob Welch <rtwelch14@yahoo.com>
Sent: Monday, January 13, 2014 12:31 PM
To: Gallagher, Michael; Leiber, John
Subject: Fw: Draft review: LRB a1353/P1 Topic: Changes to surveying definition; exception for natural resources management
Attachments: 13a1353/P1.pdf; DraftersNote1.pdf

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Thanks!

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LRB.Legal

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IN: 1/14 By Wednesday 1/15
State of Wisconsin
2013 - 2014 LEGISLATURE

THOMAS
M



LRBa1353/P1
MPG:wlijm

Stays

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
ASSEMBLY AMENDMENT,
TO ASSEMBLY BILL 506**

Insert

1/22

- 1 At the locations indicated, amend the bill as follows:
- 2 **1.** Page 10, line 13: substitute "attorney, or to" for "attorney, or to".
- 3 **2.** Page 10, line 15: after "agency" insert "an order, including any map or other
- 4 document filed with the order, that is recorded under subch. I or VI of ch. 77".
- 5 **3.** Page 47, line 13: delete "timber management or sales" and substitute
- 6 "natural resources management".
- 7 **4.** Page 47, line 15: after "depicts." insert "In this subsection, "natural
- 8 resources management" includes all of the following:".
- 9 **5.** Page 47, line 15: after that line insert:
- 10 "(a) The control of invasive species, as defined in s. 23.22 (1) (c).
- 11 (b) The cultivation or harvesting of raw forest products, as defined in s. 26.05
- 12 (1).

Insert - 4

1 (c) The management of county forests under s. 28.11.

2 (d) The practice of forestry, as defined in s. 77.81 (2), including sustainable
3 forestry, as defined in s. 28.04 (1) (e); any services provided in connection with an
4 order, or the preparation of an application for an order, under subch. I or VI of ch. 77;
5 and any forestry operation, as defined in s. 823.075 (1) (c)."

6 **6.** Page 47, line 18: after that line insert:

7 "(3) Creating a geographic information systems map if done by an employee or
8 agent of the department of natural resources within the scope of his or her
9 employment."

10 **7.** Page 48, line 14: after "exempt" insert "or excepted".

11 (END)

**2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBa1353/P2ins
MPG:wlj:jm

1 INSERT 1-4

2 **1.** Page 47, line 8: delete lines 8 to 18.

3 **2.** Page 48, line 8: after that line insert:

4 ⁴⁴³
 “SECTION 132e. ~~448~~ 14 (16) of the statutes is created to read:

5 ⁴⁴³
 ~~7-448~~ 14 (16) A person who performs services related to natural resources
6 management if any map that is prepared as a part of those services contains the
7 following statement: “This map is not a survey of the actual boundary of any property
8 this map depicts.” In this subsection, “natural resources management” includes all
9 of the following:

10 (a) The management of state lands under ss. 23.09, 23.11, 27.01, and 28.04.

11 (b) The control of invasive species, as defined in s. 23.22 (1) (c). ✓

12 (c) The cultivation or harvesting of raw forest products, as defined in s. 26.05

13 (1). ✓

14 (d) The management of county forests under s. 28.11. ✓

15 (e) The practice of forestry, as defined in s. 77.81 (2), including sustainable
16 forestry, as defined in s. 28.04 (1) (e); any services provided in connection with an
17 order, or the preparation of an application for an order, under subch. I or VI of ch. 77; ✓
18 and any forestry operation, as defined in s. 823.075 (1) (c). ✓

19 ⁴⁴³
 SECTION 132m. ~~448~~ 14 (17) of the statutes is created to read:

20 ⁴⁴³
 ~~448~~ 14 (17) A person who prepares a map that depicts temporary trails,
21 easements, or other uses of lands if the map contains the following statement: “This
22 map is not a survey of the actual boundary of any property this map depicts.” ✓

23 ⁴⁴³
 SECTION 132s. ~~448~~ 14 (18) of the statutes is created to read:

943

1 ~~448~~ 14 (18) An employee or agent of the department of natural resources who
2 creates a geographic information systems map if done within the scope of his or her
3 employment or agency.".

4 END INSERT 1-4

Gallagher, Michael

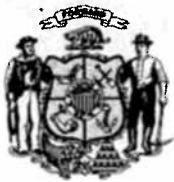
From: Leiber, John
Sent: Friday, January 17, 2014 10:03 AM
To: Gallagher, Michael
Subject: LRB a1353/P2 amendment to surveying bill

Mike,

Hopefully the last change to this one. The intent of this change is to add these agencies so that their employees are exempt in the same way DNR employees are when making GIS maps.

Please make the change on page 2 line 15: after "department" add "s of agriculture, trade, and consumer protection, military affairs, or "

John Leiber
Legislative Assistant
Office of State Representative Weatherston, 62nd District
(608) 266-0731
john.leiber@legis.wisconsin.gov



LRBa1353/P2
MPG/wljhf

Stays

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
ASSEMBLY AMENDMENT ,
TO ASSEMBLY BILL 506**

9
193

- 1 At the locations indicated, amend the bill as follows:
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- 3 **2.** Page 10, line 15: after “agency” insert “an order, including any map or other
- 4 document filed with the order, that is recorded under subch. I or VI of ch. 77”.
- 5 **3.** Page 47, line 8: delete lines 8 to 18.
- 6 **4.** Page 48, line 8: after that line insert:
- 7 “**SECTION 132e.** 443.14 (16) of the statutes is created to read:
- 8 443.14 (16) A person who performs services related to natural resources
- 9 management if any map that is prepared as a part of those services contains the
- 10 following statement: “This map is not a survey of the actual boundary of any property
- 11 this map depicts.” In this subsection, “natural resources management” includes all
- 12 of the following:

- 1 (a) The management of state lands under ss. 23.09, 23.11, 27.01, and 28.04.
2 (b) The control of invasive species, as defined in s. 23.22 (1) (c).
3 (c) The cultivation or harvesting of raw forest products, as defined in s. 26.05
4 (1).
5 (d) The management of county forests under s. 28.11.
6 (e) The practice of forestry, as defined in s. 77.81 (2), including sustainable
7 forestry, as defined in s. 28.04 (1) (e); any services provided in connection with an
8 order, or the preparation of an application for an order, under subch. I or VI of ch. 77;
9 and any forestry operation, as defined in s. 823.075 (1) (c).

10 **SECTION 132m.** 443.14 (17) of the statutes is created to read:

11 443.14 (17) A person who prepares a map that depicts temporary trails,
12 easements, or other uses of lands if the map contains the following statement: "This
13 map is not a survey of the actual boundary of any property this map depicts."

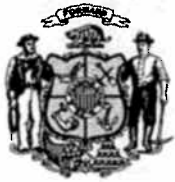
14 **SECTION 132s.** 443.14 (18) of the statutes is created to read:

15 443.14 (18) An employee or agent of the department of natural resources who
16 creates a geographic information systems map if done within the scope of his or her
17 employment or agency."

18 **5.** Page 48, line 14: after "exempt" insert "or excepted".

19 (END)

department of agriculture, trade
and consumer protection, or department
of military affairs



State of Wisconsin
2013 - 2014 LEGISLATURE



LRBa13530P3
MPG:wj:rs

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**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
ASSEMBLY AMENDMENT ,
TO ASSEMBLY BILL 506**



No
changes

At the locations indicated, amend the bill as follows:

1. Page 10, line 13: substitute "attorney, or to" for "attorney, ~~or to~~".

2. Page 10, line 15: after "agency" insert "an order, including any map or other document filed with the order, that is recorded under subch. I or VI of ch. 77".

3. Page 47, line 8: delete lines 8 to 18.

4. Page 48, line 8: after that line insert:

"SECTION 132e. 443.14 (16) of the statutes is created to read:

443.14 (16) A person who performs services related to natural resources management if any map that is prepared as a part of those services contains the following statement: "This map is not a survey of the actual boundary of any property this map depicts." In this subsection, "natural resources management" includes all of the following:

- 1 (a) The management of state lands under ss. 23.09, 23.11, 27.01, and 28.04.
- 2 (b) The control of invasive species, as defined in s. 23.22 (1) (c).
- 3 (c) The cultivation or harvesting of raw forest products, as defined in s. 26.05
- 4 (1).
- 5 (d) The management of county forests under s. 28.11.
- 6 (e) The practice of forestry, as defined in s. 77.81 (2), including sustainable
- 7 forestry, as defined in s. 28.04 (1) (e); any services provided in connection with an
- 8 order, or the preparation of an application for an order, under subch. I or VI of ch. 77;
- 9 and any forestry operation, as defined in s. 823.075 (1) (c).

10 **SECTION 132m.** 443.14 (17) of the statutes is created to read:

11 443.14 (17) A person who prepares a map that depicts temporary trails,

12 easements, or other uses of lands if the map contains the following statement: "This

13 map is not a survey of the actual boundary of any property this map depicts."

14 **SECTION 132s.** 443.14 (18) of the statutes is created to read:

15 443.14 (18) An employee or agent of the department of natural resources,

16 department of agriculture, trade and consumer protection, or department of military

17 affairs who creates a geographic information systems map if done within the scope

18 of his or her employment or agency."

19 **5.** Page 48, line 14: after "exempt" insert "or excepted".

20 (END)